

ESTTA Tracking number: **ESTTA705478**

Filing date: **10/29/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Reedhill Ventures, LLC		
Entity	Corporation	Citizenship	Texas
Address	3898 North Freeway #F Houston, TX 77022 UNITED STATES		

Attorney information	Wendy Buskop; Dileep P. Rao Buskop Law Group, PC 4511 Dacoma Street Houston, TX 77092 UNITED STATES sarah.gernhart@buskoplaw.com Phone:713-275-3400
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Applicant Information

Application No	86287762	Publication date	09/29/2015
Opposition Filing Date	10/29/2015	Opposition Period Ends	10/29/2015
Applicant	Black Label Holding LLC 1412 Broadway, 3rd Floor New York, NY 10018 UNITED STATES		

Goods/Services Affected by Opposition

Class 034. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Electronic cigarettes; liquid vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; wax and dry herb vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; and smoking devices for use with electronic cigarettes, namely, electronic cigarette refill cartridges sold empty

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	86401515	Application Date	09/22/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	VAPE ON		

Design Mark	VAPE ON
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 2012/10/15 First Use In Commerce: 2013/06/16 Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form used to refill electronic cigarette cartridges Class 035. First use: First Use: 2012/10/15 First Use In Commerce: 2013/02/06 Retail and wholesale store services forelectronic cigarettes, electronic cigarette liquids, and electronic cigarette accessories

Attachments	86401515#TMSN.png(bytes) 2228.004 NOTICE OF OPPOSITION.pdf(37945 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/WENDYBUSKOP/
Name	Wendy Buskop
Date	10/29/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark
Application Serial No. 86/287,762
Mark: KEEP CALM AND VAPE ON
Filing Date: May 21, 2014
Published for Opposition: September 29, 2015

REEDHILL VENTURES, LLC,

Opposer,

v.

BLACK LABEL HOLDING LLC,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, REEDHILL VENTURES, LLC (“Opposer” or “Reedhill”), a limited liability company organized under the laws of Texas, having its principle place of business at 3898 North Freeway, Houston, Texas 77022 believes that it is or will be damaged by the registration of United States Trademark Application Serial No. 86/287,762, as filed with the United States Patent and Trademark Office (hereinafter “USPTO”) on May 21, 2014 by Black Label Holding LLC (hereinafter “Applicant” or “Black Label”), for the trademark mark KEEP CALM AND VAPE ON in connection with: “Electronic cigarettes; liquid vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; wax and dry herb vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; and smoking devices for use with electronic cigarettes, namely, electronic cigarette refill cartridges sold empty” in International Class 034. Reedhill hereby opposes the Application.

As grounds for the Opposition, Reedhill alleges the following:

1. Since 2013, Opposer has been engaged in the business of providing electronic cigarette liquid (e-liquid) and retail and wholesale store services to its customers. These goods and services consist of, among other things, sales of electronic cigarettes, electronic cigarette liquids, and electronic cigarette accessories to its customers

2. Opposer is a company that works with 100 plus retail stores, whereas about 50 of those stores are currently carrying and selling Opposer's goods throughout the United States.

3. Opposer has invested a great deal of time and money in developing and promoting Opposer's business and is continuing to spend substantial amounts of time and money in promotions of the same. Among other things, Opposer, has invested substantial sums in developing and promoting its goods and services associated with electronic cigarettes, electronic cigarette liquid (e-liquid), and electronic cigarette accessories and creating presence in its industry.

4. On September 22, 2014, Opposer filed United States Trademark Application Serial No.: 86/401,515 for the registration of the mark VAPE ON for "Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form used to refill electronic cigarette cartridges" in International Class 030 and for "Retail and wholesale store services for electronic cigarettes, electronic cigarette liquid, and electronic cigarette accessories" in International Class 035. Opposer claims a first date of use anywhere at least as early as October 15, 2012 and a first date of use in commerce at least as early as June 16, 2013.

5. Upon information and belief, Applicant is a Delaware limited liability company

with a principle place of business at 1412 Broadway, 3rd Floor, New York, New York 10018.

6. On May 21, 2014, Applicant filed an intent-to-use application under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), with the USPTO for the registration of the trademark KEEP CALM AND VAPE ON, as United States Trademark Application Serial No.: 86/287,762 for “Electronic cigarettes; liquid vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; wax and dry herb vaporizers for smoking, namely, smokeless cigarette vaporizer pipes; and smoking devices for use with electronic cigarettes, namely, electronic cigarette refill cartridges sold empty” in International Class 034.

7. Upon information and belief, Applicant has made no use of its alleged trademark in commerce.

8. A suspension letter was issued in Opposer’s United States Trademark Application Serial No.:86/401,515. Continuation of Applicant’s United States Trademark Application Serial No.: 86/287,762 would be a source of damage and injury to Opposer.

9. Since at least before the filing date of Applicant’s United States Trademark Application Serial No.: 86/287,762, Opposer has continuously used and promoted Opposer’s mark in interstate commerce in connection with Opposer’s goods and services. By virtue of Opposer’s continuous and substantial use, Opposer’s mark has become a famous identifier of Opposer and its goods and services and has distinguished Opposer’s good and services from the goods and services of others. As a result, Opposer has built up, at great expense and effort, valuable goodwill in Opposer’s mark.

10. In addition to the protection afforded Opposer under federal trademark law, Opposer has extensive common law rights in Opposer’s mark, having facilitated Opposer’s

business, increasing the number of locations carrying and selling Opposer's products and services and consumers in making thousands of purchases using the goods and services under Opposer's mark. Opposer's common law rights in Opposer's mark predate the filing date of Applicant's United States Trademark Application Serial No.: 86/287,762. Opposer relies on its common law trademark and service mark rights in Opposer's mark.

11. Opposer will be damaged by registration of the Applicant's mark in that the Applicant's mark so resembles Opposer's Mark, subject to the United States Trademark Application Serial No.: 86/401,515 and in which Opposer owns substantial common law trademark and service mark rights, as to cause confusion or cause mistake or deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

12. In view of Opposer's prior rights in Opposer's mark, Applicant is not entitled to federal registration of the Applicant's mark pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Reedhill believes and alleges that it is being, and will continue to be, damaged by the registration of the Applicant's mark, and respectfully requests that the Applicant's Application and mark be rejected, that no registration be issued thereon to Applicant, and that the Opposition be sustained in favor of Reedhill.

The filing fee for this opposition, in the amount of \$300.00, is hereby electronically transferred with the submission of the Notice of Opposition.

The undersigned, registered agents for Reedhill Ventures, LLC, state that they are authorized to prosecute this Opposition, that they have read and signed the foregoing Notice of Opposition and knows the contents thereof, and that all statements are made on

information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 101 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of this Opposition and any decision resulting therefrom.

Respectfully submitted,

Date: October 29, 2015

/WENDY BUSKOP/

Wendy K. B. Buskop
Dileep P. Rao
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Houston, Texas 77092
Tel: 713-275-3400
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Attorneys for Opposer Reedhill Ventures, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that on the below date a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served via US first class mail, postage prepaid, and properly addressed to Applicant and Applicant's counsel at:

Black Label Holding LLC
1412 Broadway
3rd Floor
New York, New York 10018

Anna Vishev
Law Office of Anna Vishev P.C.
44 Cortelyou Avenue
Staten Island, New York 10312-2104

Date: October 29, 2015

/Wendy Buskop/
Wendy Buskop
Attorney for Opposer, Reehill Ventures, LLC